

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929

MFA.No. 599 of 1997(D)

OPMV.2679/1993 of MOTOR ACCIDENT CLAIMS TRIBUNAL, NEYYATTINKARA

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APPELLANT/APPLICANT:

VELAYUDHAN CHETTIAR, PALLIVILA VEEDU, NETTARACHIRA,
NEDUMANGAD.

BY ADV. SRI.PIRAPPANCODE V.S.SUDHIR

RESPONDENTS/RESPONDENTS:

1. SATHEESAN , KOTTARATHALAKKAL VEEDU, NATTARACHIRA,
NEDUMANGAD (OWNER)
- *2. S.SHIHABUDEEN NAZEEM MANZIL, NEAR B.H.S., MANCHA,
NEDUMANGAD (DRIVER) (DELETED)
3. THE NATIONAL INSURANCE CO. LTD., DIVISIONAL OFFICE,
THIRUVANANTHAPURAM (INSURER).

2ND RESPONDENT IS DELETED FROM THE PARTY ARRAY AT THE RISK OF THE
APPELLANT AS PER ORDER DATED 6/1/05 ON IA 1619/04

R3 BY ADV. SRI.GEORGE CHERIAN (THIRUVALLA)

R1 BY ADV. SRI.RAM MOHAN.G.
SRI.G.P.SHINOD
SRI.MANU V.

THIS MISC. FIRST APPEAL HAVING COME UP FOR ADMISSION
ON 26/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

M.F.A.NO.599 OF 1997

Dated 26th September 2007

J U D G M E N T

Claimant in O.P.(M.V) 2679 of 1993 on the file of Motor Accidents Claims Tribunal, Neyyattinkara is the appellant. He sustained injuries in a motor accident on 26/5/1992 at about 10.15 p.m. He was a passenger of Mahindra van Kl-01-B.171 owned by first respondent, driven by second respondent and insured with third respondent. According to appellant the accident was caused due to negligent driving of second respondent and being the owner first respondent is liable and appellant is entitled to get compensation from third respondent insurer. Motor Accidents Claims Tribunal on the evidence found that accident was caused due to negligent driving of second respondent and being the insured first respondent is liable and being the insurer third respondent is liable to pay the compensation.

2. Appellant contended that he sustained fracture of left patella and treated as inpatient

for six days and was in plaster for 3-4 months and sustained permanent disability. He claimed a total compensation of Rs.1,00,000/-. Apart from his examination as PW2, he produced Ext.A9 O.P.Ticket and Ext.A10 treatment certificate. Motor Accidents Claims Tribunal awarded a total amount of Rs.9,500/-. Unsatisfied with the quantum awarded the appeal is filed.

3. Learned counsel appearing for appellant and third respondent were heard.

4. Argument of learned counsel appearing for appellant is that appellant sustained fracture of left patella and therefore was in plaster cast for 3-4 months and the compensation awarded is insufficient and appellant is entitled to get compensation as sought for.

5. On hearing the learned counsel and going through the award I do not find any ground to enhance the compensation awarded. Award shown that on all the heads under which appellant sought compensation, lesser amount was awarded without considering the question whether appellant is entitled to compensation or not on those heads. Even though appellant did not sustain permanent disability, compensation was awarded even for

permanent disability as well as loss of earning power. Therefore, even if it is taken that compensation awarded for pain and sufferings could have been something more than what was awarded, in view of the compensation awarded under undeserved heads, I do not find that appellant is entitled to any further enhanced compensation.

Appeal is dismissed.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.

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M.SASIDHARAN NAMBIAR,J.

JUDGMENT

M.F.A.NO.599 OF 1997

26th September 2007
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